

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1587. ANIMAL LIFE, FEED, DRUGS AND MEDICINES.

Reference: Sections 6018.1, 6358, and 6358.4, Revenue and Taxation Code.

(a) ANIMAL LIFE. Tax does not apply to sales of any form of animal life of a kind the products of which ordinarily constitute food for human consumption (food animals), as for example, cattle, sheep, swine, baby chicks, hatching eggs, fish, and bees. Operative January 1, 1993, food animals include ostriches. Operative January 1, 1996, food animals include emus. Operative January 1, 2000, the term "food animals" includes any form of animal life classified by the California Department of Food and Agriculture, by regulation, as livestock or poultry intended for human consumption under sections 18848 and 25408 of the California Food and Agricultural Code. Tax shall not apply to sales of such newly defined food animals on or after the date the related California Food and Agricultural regulation is effective.

The term "food animals" does not include any forms of animal life which are commonly kept as pets or companions, the sale of which for food is prohibited by Penal Code section 598b, nor does it include any horse, the sale of which for human consumption is prohibited by Penal Code section 598c. For example, cats, dogs, horses, mink, and canaries are not food animals.

(b) FEED.

(1) **DEFINITION.** The term "feed" as used herein includes cod-liver oil, salt, bone meal, calcium carbonate, double purpose limestone granulars and oyster shells, but does not include sand, charcoal, granite grit, sulphur and medicines. It also includes any item which is purchased for use as an ingredient of a product which would constitute a feed were the product itself sold.

(2) **APPLICATION OF TAX.**

(A) In General. Tax does not apply to sales of feed for food animals or for any non-food animals which are to be sold in the regular course of business.

(B) Cellulose Casings. Tax does not apply to the sale or use of cellulose casings used in the manufacture and production of processed meat products which are ultimately resold as, or incorporated into, feed for food animals or non-food animals which are to be sold in the regular course of business.

(C) Medicated Feed. Tax does not apply to the sale of medicated feed, the primary purpose of which is prevention and control of disease of food animals or of non-food animals which are to be sold in the regular course of business. Tax also does not apply to sales of the particular ingredients purchased from different sellers by a purchaser who mixes them for feeding to such animal life, in such proportions that the product is an exempt medicated feed rather than a drug.

(c) DRUGS OR MEDICINES.

(1) **DEFINITIONS.** The term "drugs or medicines, the primary purpose of which is the prevention and control of disease," as used herein, means and includes any livestock drug approved by the United States Food & Drug Administration, which are defined and registered pursuant to California Food & Agricultural Code sections 14202, 14206, and 14281. The term also includes vitamins as well as insecticides which are labeled for livestock use and which are administered directly to the livestock. The term includes, but is not limited to, legend drugs, pills and capsules, liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps. "Livestock" includes poultry. "Livestock drug" means any drug, combination of drugs, proprietary medicine, or combination of drugs and other ingredients which is prepared for administration to livestock. On or after January 1, 1997, the term "drugs and medicines" also includes oxygen administered to food animals, as provided in (c)(2)(A) below.

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(2) APPLICATION OF TAX.

(A) Oxygen. On or after January 1, 1997, tax does not apply to the sale or use of oxygen administered to food animals for the primary purpose of preventing or controlling disease, including oxygen injected into ponds or tanks that house or contain aquatic species raised, kept, or used as food for human consumption. However, tax does apply to the sale or use of oxygen administered to nonfood animals whether or not the animals are being held for sale in the regular course of business.

(B) Administered Directly. Prior to January 1, 1997, except as provided in Regulation 1506 (18 CCR 1506), subdivision (h), dealing with licensed veterinarians, tax applies to the sale or use of drugs or medicines as defined in subdivision (c)(1) which are administered directly to animal life. Operative January 1, 1997, tax does not apply to the sale or use of drugs or medicines as defined in subdivision (c)(1) which are administered directly (e.g., orally, hypodermically, or topically or externally as injections, implants, drenches, repellents, or pour-ons) to food animals. The sale or use of drugs or medicines as defined in subdivision (c)(1) administered directly to non-food animals are subject to tax regardless that such animals are being held for sale in the regular course of business.

(C) Mixed with Feed or Drinking Water. Prior to April 1, 1996, tax applies to the sale or use of drugs or medicines as defined in subdivision (c)(1) administered to animal life as an additive to feed (except as provided in (b)(2)(B) above) or to drinking water. Operative April 1, 1996, tax does not apply to the sale or use of such drugs or medicines administered as an additive to, or component of, feed or drinking water for food animals or for nonfood animals being held for sale in the regular course of business.

(d) EXEMPTION CERTIFICATES.

(1) FEED. Sellers of feed should secure feed exemption certificates with respect to sales of feed of a kind customarily used both to feed food animals and to feed non-food animals which is purchased for food animals, and with respect to sales of all feed which is purchased for non-food animals being held for sale in the regular course of business. The following form of certificate is suggested:

"I hereby certify that all of the feed which I shall purchase from _____

will be purchased for use as feed for food animals or for non-food animals which are being held for sale in the regular course of business. This certificate shall be considered a part of each order which I give unless such order shall otherwise specify. This certificate shall be good until revoked in writing."

Signature _____

Address _____

Occupation _____

Seller's Permit No. (if any) _____

Sellers of feed need not secure feed exemption certificates with respect to sales of feed of a kind ordinarily used only in the production of meat, dairy or poultry products for human consumption or with respect to sales in small units (two standard sacks of grain or less and/or four bales of hay or less) of feed of a kind customarily used either for food production or other purposes (feeding work stock), or with respect to sales of feed that is specifically labeled by the manufacturer for food animals. In the absence of evidence to the contrary, it will be presumed that all such feed are to be used in producing meat, dairy or poultry products for human consumption.

(2) DRUGS OR MEDICINES.

(A) Administered Directly. Operative January 1, 1997, persons who buy drugs or medicines as defined in subdivision (c)(1), which will be administered directly (e.g., orally, hypodermically, or topically or externally as injections, implants, drenches, repellents, or pour-ons) to food animals, should give the vendor an exemption certificate similar to the example in subdivision (d)(2)(C) below.

(B) To be Mixed with Feed or Drinking Water. Operative April 1, 1996, persons who buy drugs or medicines as defined in subdivision (c)(1) to be mixed with feed or drinking water, for food animals or of non-food

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animals being held for sale in the regular course of business, should give the vendor an exemption certificate similar to the example in subdivision (d)(2)(C) below.

(C) Sellers of drugs or medicines to be mixed with feed or drinking water for food animals or for non-food animals being held for sale in the regular course of business, to be administered directly to a food animal, or, if oxygen, administered to a food animal such as by pumping or injecting the oxygen into the animal's living environment should request a certificate similar to the following from the buyer:

"I hereby certify that the drugs or medicines which I shall purchase from _____

_____ will be purchased

- ☐ as an additive to feed or drinking water for food animals or for non-food animals being held for sale in the regular course of business,
- ☐ for administration directly to a food animal, or
- ☐ for oxygen administered to a food animal.

This certificate shall be considered a part of each order which I give unless such order shall otherwise specify. This certificate shall be good until revoked in writing.

Signature _____

Address _____

Occupation _____

Seller's Permit No. (if any) _____

(3) INVOICES RELATED TO EXEMPTION CERTIFICATES. Exemption certificates should be complete with the information specified in the above forms, including the names and addresses of the purchasers, in order to constitute adequate support for exemptions claimed by sellers. In addition, the invoices on sales claimed as exempt should specify the names of the purchasers in order to relate them to exemption certificates.

History: Effective July 1, 1947.

Amended July 23, 1947.

Amended and renumbered August 5, 1969, effective September 6, 1969.

Amended March 9, 1976, effective April 18, 1976. Added (c)(3) clarifying requirement of sellers to maintain completed exemption notices and related invoices.

Amended July 30, 1986, effective December 13, 1986. Amended subdivision (b)(2)(C) to provide that tax applies to sales of drugs or medicines administered to animal life directly or as an additive to drinking water except as provided.

Amended November 18, 1987, effective February 26, 1988. In subdivision (c)(1), defined term "small units" of feed.

Amended January 11, 1996, effective October 12, 1996. Amended subdivision (a) to define ostriches as food animals; added a reference to the California Code of Regulations to subdivision (b)(2)(C); corrected a clerical error in subdivision (c)(2).

Amended August 1, 1997, effective January 8, 1998. Amended subdivision (a) by adding reference to emus as food animals effective January 1, 1996. Former subdivision (b)(2)(C) redesignated (c) and renamed "Drugs or Medicines." New subdivisions (c)(1) and (c)(3) added. New subdivision (c)(2) added incorporating language of former subdivision (b)(2)(C), adding reference to use of products, cross-reference to new subdivision (c)(1), and adding new second sentence. Former subdivision (c) redesignated (d) and subdivision (d)(1) amended by adding phrase "which . . . business" to first paragraph; deleting language "I am engaged . . . that" and "in the production . . . products" from, and adding phrase "as feed . . . business" to first paragraph of certificate. New subdivision (d)(2)(A) added. First paragraph of former subdivision (c) incorporated into new subdivision (d)(2)(B) adding operative date, cross-reference to new subdivision (c)(1), phrase "or drinking . . . business," and cross-reference to new subdivision (d)(2)(C); second sentence deleted. Content of second paragraph of former subdivision (c)(2) incorporated into new subdivision (d)(2)(C) with phrases "or medicines", "or drinking water", and "or for non-food animals . . . food animal" added. In sample certificate, phrases "I . . . of" deleted, "or medicines" added, and language beginning with "for" and running to end of first paragraph, along with blanks, deleted; and two new blocks added.

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Amended July 29, 1999, effective October 1, 1999. New subdivision (b)(2)(B) "Cellulose Casings," added. Renumbered old subdivision (b)(2)(B) "Medicated Feed," as subdivision (b)(2)(C).

Amended February 23, 2000, effective May 18, 2000. Amended subdivision (a) to include in "food animals" any form of animal life or poultry classified by the California Department of Food and Agriculture as intended for human consumption, and to clarify "food animals" do not include animal life kept as pets and companions. Amended subdivisions (c)(1) and (d)(2)(C), and added subdivision (c)(2)(A) concerning oxygen administered to food animals. Redesignated former subdivisions (c)(2)-(3) to (c)(2)(B)-(C).

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.